Urgent Question on the Junior Doctors’ Contract Negotiations (House of Commons – 20/11/2015)

Heidi Alexander (Lewisham East) (Lab) (Urgent Question): To ask the Secretary of State for Health if he will make a statement on the negotiations for a new junior doctors contract.

The Minister for Community and Social Care (Alistair Burt): Three years ago, negotiations began between the British Medical Association, NHS Employers and the Department of Health. They were based on a common view that the current contract—agreed in 2000, when junior doctors were working very long hours—was outdated and needed reform. Between December 2012 and October 2014, extensive and patient negotiations took place, with an agreed target date for implementation of August 2015.

The negotiations were abruptly terminated by the BMA’s unilateral withdrawal from them, without warning, in October 2014. That led to the independent and expert Doctors and Dentists Review Body being asked to take evidence on reform of the contract from all parties, including the BMA, and to make recommendations. That happened because of the unwillingness of the BMA to agree sensible changes to the contract, and allowed an independent expert body to recommend a way forward.

The DDRB report on the junior doctors contract, with 23 recommendations, was published in July. The Secretary of State then invited the BMA to participate in negotiations based on those independent recommendations. Unfortunately, the junior doctors committee of the BMA maintained its refusal to negotiate, even though the negotiations would be on the basis of an independent report to which it had had an input. Both the Secretary of State and NHS Employers have repeatedly invited the BMA to participate in negotiations. It was made clear that there was a great deal to agree on based on the DDRB recommendations.

We deeply regret that the BMA chose the path of confrontation, rather than negotiation.

While we continued to try to persuade it to develop a new contract with us, it instead chose to campaign against the independent DDRB’s recommendations, including by issuing a calculator, which it subsequently withdrew, suggesting—wholly falsely—that junior doctors would lose 30% of their pay. Instead, the BMA issued demands, including a right of veto on any contract change. In effect, it asked us to ignore the DDRB’s recommendations, the heads of terms agreed back in 2013, and to start again.

Given the BMA’s refusal to engage and its wholly misleading statements about the impact of a new contract, NHS Employers issued a contract offer to junior doctors earlier this month. This offer has safety at its heart and strong contractual safeguards to ensure that no doctor is required to work more than 48 hours a week on average, and it gives junior doctors the right to a work review when they believe hours are being exceeded. It reduces the maximum hours that a doctor can work in any week from 91 to 72 hours. It pays doctors an 11% higher basic pay rate, according to the hours that they work, including additional payments for unsocial hours.

It reduces the number of consecutive nights that can be worked to four and of long days to five, ending the week of nights.

The hon. Member for Lewisham East (Heidi Alexander) has called for the parties to go to ACAS. The Secretary of State is not ruling out conciliation. We have always been willing to talk. The Government have repeatedly appealed to the BMA to return to the negotiating table, and that offer is still open. We believe that talks, not strikes, are best for patients and for junior doctors. The Secretary of State has said that talks can take place without preconditions, other than that an agreement should be within the pay envelope. However,
the Government reserve the right to make changes to contracts if no progress is made on the issues preventing a truly seven-day NHS, as promised in the manifesto and endorsed by the British people at the last election.

It is regrettable that junior doctors have voted for industrial action, which will put patients at risk and see between 50,000 and 60,000 operations cancelled or delayed each day. I therefore call on the hon. Lady to join the Government in calling on the BMA, as it prepares for unprecedented strike action, to come back to the table for talks about the new contract for junior doctors. The Government remain firmly of the view that a strike by junior doctors is entirely avoidable, and we call on the BMA to do all it can to avert any action that risks harm to the patients we all serve.

**Heidi Alexander:** The fact that we are in this situation today, with 98% of junior doctors having voted to take significant industrial action for the first time in 40 years, makes me angry and sad. I say that because it did not have to be this way. The truth is that if we had had a little less posturing and a little more conversation from the Health Secretary, this whole sorry episode could have been avoided.

Does the Minister agree that, over the next week, everything that can be done should be done to stop the three days of planned industrial action? He said that the Health Secretary does not rule out going to ACAS, so why did the Secretary of State appear to dismiss the idea of independent mediation yesterday? Does that seemingly flippant rejection of the need for independent mediators to prevent industrial action not show a casual disregard for patient safety?

The way in which the Health Secretary has handled the negotiations has been appalling. Does the Minister understand that negotiation by press release is not the way to conduct discussions, nor any way to run the NHS? Does he understand that junior doctors are particularly angry about the way in which the Health Secretary has repeatedly conflated the reform of the junior doctors contract with seven-day services? Junior doctors already work weekends and they already work nights. For the record, not a single junior doctor I have met during the past few months would not drop everything to respond to a major terrorism incident. To suggest otherwise is to insult their professionalism.

The fundamental question hanging over Ministers this morning is this: why continue this fight? Hospitals are heading for a £2 billion deficit this year, mental health services are in crisis and the NHS is facing its most difficult winter in a generation, so why on earth are this Government picking a fight with the very people who keep our NHS running? There are nine days left before the first day of planned industrial action. Let me say very clearly to the Minister this morning: it is now time to talk.

**Alistair Burt:** I agree with the hon. Lady that we do not need to be in this situation. Absolutely. That is the whole point. The Secretary of State has kept his door open all the time. In seeking to conclude this, after starting negotiations three and a half years ago, the door remains open. It is for the BMA to come through it and say that it wants to continue the negotiations that it abruptly left more than a year ago.

Can and should everything be done to avert the strikes? Yes, it should. It would help if Labour Front Benchers made an unequivocal statement that they do not support strike action by doctors. I await to see whether that will be forthcoming. In the meantime, the Secretary of State has said that he is perfectly prepared to go to conciliation, but conciliation usually comes after a process of negotiations has broken down. The whole point is that the negotiations have not even kicked off again. The point is that the Secretary of State has offered such an opportunity, based on recommendations made by the independent Doctors
and Dentists Review Body. That committee has made independent recommendations, including on the basis of information provided by the BMA.

For the hon. Lady to talk about a challenge to safety ill becomes the party that presided over Mid Staffs. The point is that, since he took office, the Secretary of State has, quite plainly and to everybody’s knowledge, made safety in the NHS his prime consideration. He wants a seven-day NHS to recognise the issues that have arisen at weekends. He has never said that junior doctors do not work at weekends. Of course they do—they carry the biggest burden of hospital work at weekends—but to make sure that the NHS is completely safe at weekends, as he intends, it is essential to spread out the burden and the junior doctors contract is part of that process. The hon. Lady said that it should be up to the Secretary of State to make the next move on the negotiations. I say to her that the door to negotiations is always open, as the Secretary of State has made clear.

The hon. Lady raised the issue of patient safety and the comments of Professor Sir Bruce Keogh, who is responsible for doctors in relation to emergencies. It is his role, as the national medical director, to ensure that everyone is safe. He wrote to the BMA yesterday and said:

“I would reiterate to both sides that I believe the best way to ensure patient safety is for the planned action not to take place. I would strongly urge you, even at this late stage, to come back to the negotiating table.”

He stated that

“patient safety is of paramount importance.”

Sir Bruce Keogh’s point in relation to an emergency situation was that although no one doubts for a second that, should there be an emergency in this capital like the one in Paris, every available doctor and member of medical staff would report for work, if it took place on the day of a strike when they were not already in the hospitals in the numbers required, it would take them time to get in. That was his concern about patient safety and it is a reasonable one.

I say again that we await a suggestion from the hon. Lady that it is not right for junior doctors to take strike action and that she will support the Secretary of State in saying that it is time to return to negotiations. The Secretary of State has been patient and fair, and he is clear that this is about safety. Negotiations should be returned to as soon as possible, and it would help if everyone said so.